

CA20N

Z 1

-66A22

August 30, 1966.

Submission to The Royal Commission on the  
Workmen's Compensation Act (Ontario) by the  
United Electrical, Radio and Machine Workers  
of America

---

Sir:

The Workmen's Compensation Act was a very important milestone in providing a measure of security for working people in the Province of Ontario. Amendments to the Act, made over the years since its original enactment, have substantially added to this security, and have greatly extended the provision of effective protection for workers disabled through accident or occupational illness.

While administrative matters are excluded from the scope of this inquiry, we feel we should take this opportunity to express our appreciation to the administrative personnel of the Workmen's Compensation Board for the excellent co-operation we have received in our function of acting on behalf of members of the union who request our assistance, when difficulties are encountered in establishing claims under the Act.

Arising out of the rather extensive experience in representing workmen with disputed claims, we hold the strong view that the Act requires further amendment in a number of important respects, so that all legitimate claims for compensation under the Act will be recognized and adequate compensation provided under today's conditions to injured and disabled workmen and their families.

In a preliminary submission to this Commission, dated July 22, 1966, we set out the areas which we believe require clarification and change in the Workmen's Compensation Act. They are as follows:





- (1) A more liberal interpretation and definition of an accident than is presently provided.
- (2) The Act to provide that claims shall not be denied solely on the ground that there is insufficient evidence, or absence of eyewitnesses.
- (3) Recognition of heart disease, mental illness and pure fatigue neurosis, as valid grounds for compensation claims.
- (4) That there be no reduction in level of compensation payment unless, and until, employment is available for the workman.
- (5) The lump sum payment on death of an insured workman to be increased to \$1,000.00, with all reasonable funeral expenses to be paid in addition.
- (6) Pensions and claims based on prior injuries to be re-adjusted upward based on the present wage levels paid for the particular occupation(s) on which the accident(s) occurred.
- (7) Provision for the upward adjustment of compensation payments based on the cost of living. Widows' and dependents' pensions to be adjusted to fully reflect the change in cost of living.



- (8) The amount of compensation to be the equivalent of full earnings, less statutory deductions.
- (9) Provision for clothing allowance in case of loss or damage through accident. Allowance for continuing need of special clothing or footwear, or damage through abnormal wear caused through the use of supports or other orthopaedic apparatus.

We believe these proposed changes are fully justified, and are necessary to provide the protection to which working people are entitled when faced with temporary or permanent loss of livelihood as a result of an industrial accident or occupational disease or illness.

Our views on the necessity of the proposed changes follow in the order set out above.

1. A more liberal interpretation and definition of an accident than is presently provided.

Prior to April 1963 the Workmen's Compensation Act defined an accident as follows:

"accident" includes a wilful and intentional act, not being the act of the workman, and a fortuitous event occasioned by a physical or natural cause.

The interpretation placed by the Board on this definition was that something out of the ordinary, something of an unusual nature, must have happened in order that an injury be recognized and made compensable under the Act.





To use a rather simple example, the following will illustrate the interpretation of the Act in the period up to April 1963:

A workman was required to lift castings from the floor to a table for machining. This he did many times in the course of his daily work. When lifting a particular casting, he suffered a sharp pain in his back. He reported to the plant surgery, and gave the details of what had happened to the nurse. It was determined that he had suffered what is commonly referred to as a slipped disc. A claim for compensation was made, which was later rejected by the Board because "nothing unusual had happened".

Another workman, under identically the same circumstances as the above, with the exception that he reported he had slipped on an oil slick while lifting the casting. His claim for compensation was approved. The fact he had slipped while lifting was "an unusual happening" under the interpretation.

This rigid interpretation resulted in numerous claim rejections on grounds which can only be described as a sheer technicality. Many injuries, arising out of and in the course of employment, were thus made non-compensable.

Repeated and strong protests were made by workmen and their organizations against the injustice inherent in this interpretation of the Act. In 1963 the Act was amended on definition of an accident to the following:

"accident" includes,

- (i) a wilful and intentional act, not being the act of the workman,
- (ii) a chance event occasioned by a physical or natural cause, and
- (iii) disablement arising out of and in the course of employment.





The interpretation now placed on this definition is, we understand, less rigid than that which prevailed previously, and that claims are being allowed based on establishing to the satisfaction of the Board a causal relationship between the employment and the injury, and not necessarily involving "an unusual happening". This is certainly a considerable improvement, and we welcome it as such.

However, our experience satisfies us that the 1963 amendment to the Act, as interpreted by the Board, has not eliminated the basic problem which existed under the pre-amended Act. Claims are still being disallowed because there was an absence of an unusual happening where "causal relationship" is not established to the satisfaction of the Board.

As an example we wish to quote the reply of the Workmen's Compensation Board to a recent claim made by a member of this union. We have omitted the name and the claim number, but will, of course, provide this information to the Commission, on this and other claims we may quote, if requested. The following is a letter from the Workmen's Compensation Board, dated June 24, 1966:

"Your claim for chest disability has been carefully reviewed, having regard for the reports presently available.

"You state that on May 19th, 1966 you were bending over a tub at work, when your foot slipped and you fell forward. When this occurred you experienced discomfort in your chest and the matter was reported to your employer's first aid department. Following this, you consulted Dr. \_\_\_\_\_ for treatment.

"According to your employer's report, you reported to their first aid department on May 19th, 1966 complaining of chest pain which you stated had been present since

Digitized by the Internet Archive  
in 2025 with funding from  
University of Toronto

<https://archive.org/details/31761119694123>



the previous day. At that time you reported that you believed the discomfort was due to tension and made no indication that this was the result of an accident occurring during the course of your employment. After you consulted your doctor, you returned to work and advised your employer that the doctor had indicated that your chest discomfort was caused from heavy lifting at work. You did not report to your employer that you had slipped on May 19th, and they are unable to confirm that this incident did occur.

"From reviewing the varied information which has been submitted regarding the cause of your disability, it is not considered that proof of accident in the employment has been established. There were no witnesses to your alleged accident, and you are unable to confirm the incident which you describe. Accordingly, your claim has been rejected as it has not been shown that the disability was the result of accident in the employment.

"You are not entitled to receive compensation benefits nor will accounts for treatment of your diagnosed disability, be accepted."

Aside from the reference in this letter to the opinion allegedly expressed by the claimant to the effect that he believed the chest discomfort was due to tension, an opinion which should have no bearing whatsoever on the claim, or the Board's disposition thereof, the position taken by the Board in this case seems to have been governed by the absence of verification of an accident, i.e. having slipped, and therefore establishing that something unusual had happened.

Therefore, it would seem that the Board in this instance did not apply the interpretation which Article 1 (1) (iii) of the Act makes possible, namely the causal relationship of regular and relatively heavy lifting to the condition complained of, but rather relied on the more restrictive section, Article 1 (1) (ii) which still demands that something unusual, i.e. "a chance event" must have happened.





We quote the above as an example of rigid interpretation of an accident. It is by no means an isolated case. We have record of others of relatively recent date, and therefore must conclude that among the great number coming before the Board, more than a few claims are denied on the basis of the pre-1963 interpretation.

It is our contention that the Act should be amended so that it is incapable of being interpreted as requiring the existence of an unusual happening in order to establish that an accident occurred. This would probably be accomplished by deletion from the Act of Section 1 (ii) of Article 1.

The purpose of the Workmen's Compensation Act should be the provision of protection in earnings and costs of medical treatment for all disablement arising from the employment, and limited only in its exclusions to those disabilities which clearly have no connection with the employment.

If, for example, a workman contracts pneumonia, and it can be established that this could result from the type of conditions under which an employee must work, then in our view this condition should be as capable of being compensable as one which involves a torn ligament or a broken bone.

We appreciate that this proposal will make the provision of compensation in the province more costly, and we note that employers complain of present costs. However, the total cost impact must not be the determinant of the extent of protection to which the individual





workman is entitled. The basis of compensation must be the real needs of the injured or ill workman, and his family.

Another area of difficulty is that involving injuries or physical conditions where it is alleged that there is a pre-existing injury and/or congenital condition, and the Board rejects outright a claim for compensation, or limits the liability to that portion of the disablement which, it claims, is attributable to the employment. This problem is often encountered in claims having to do with strains and sprains, industrial-type diseases, hernia, back injuries, etc.

As an example, we quote below correspondence relating to a claim involving a knee injury, and where medical examination apparently disclosed some disability to the knee which pre-dated the injury for which the claim was made. A letter from the Board to the claimant, dated February 3, 1964, contained the following:

"The Chairman of the Board....has reviewed your claim file with me and a Senior Medical Consultant, and has instructed me to acknowledge your telephone call of January 23, 1964.

"First of all, I must point out that you were advised on September 3, 1963 that your claim was allowed on an aggravation basis only. Our letter of that date states:

'Your claim has been allowed on the basis of aggravation as recent reports show a condition in your right knee was present before your July 16, 1963 accident.

'This is brought to your attention as it may possibly effect the extent of your entitlement under the Workmen's Compensation Act.'





"When you were in our Hospital and Rehabilitation Center for treatment, it was apparent that you had an exostosis on your right leg which was present prior to your accident of July 1963 and, therefore, was non-compensable. Our records indicate that Dr. \_\_\_\_\_ commented to you that you might have to have treatment to this area at some future date, and if he gave you the impression that this was considered as further entitlement under the Act, then this is unfortunate because your entitlement under the Act does not include treatment for this condition as it is not the result of your accident nor is it a disability resulting from your employment...."

In connection with this particular claim it is to be noted that the personal doctor of the claimant has expressed an important opinion. His doctor wrote the Workmen's Compensation Board on February 8, 1966, as follows:

"The above named patient has asked me to write to you further on the subject of his disabled right knee.

"You will recall that this man has complained of an unstable and painful knee since shortly after his operation by Dr. \_\_\_\_\_ on August 12, 1963.

"In a review of the correspondence to date it would appear that the Board felt that his complaints were due to the presence of a rather large exostosis in the region of the right adductor tubercle. Accordingly this tubercle was removed by Dr. \_\_\_\_\_ and myself on March 2nd, 1965.

"Unfortunately this man still complains of the original symptoms which were present after his operation in 1963.

"This would seem to indicate that the exostosis had very little to do with this man's problem, although it is quite possible that it was the result of a traumatic injury to the knee.





"It would seem logical in my opinion that by exclusion of other possible causes of this man's condition we are left with a painful disabled knee following surgery in a compensable injury. If this indeed is the case, then the Board has indeed some responsibility for this patient's condition...."

The question that occurs in connection with such a claim as the above, and claims which involve the existence of some congenital condition coupled with compensable injury, is the effect of the employment on such conditions. Would the worker have had any serious problem with the pre-existing condition under other circumstances?

In our view there should be no loss of entitlement because of a pre-existing problem, where it is established that the disablement is in any way caused or aggravated by an accident, or work conditions, at the place of employment.

We recognize that the employers will argue very forcefully against having to accept, through compensation assessment, responsibility for conditions which do not, in total, arise out of the employment. The same protest would undoubtedly be made with respect to certain other recommendations which we make in this submission, if enacted into law.

However, as stated before, we do not believe that the cost impact should in any way determine the application of a just and equitable measure of compensation to injured workmen. If, in the considered opinion of the government and the legislature, some changes in the Act which would require additional financing should not be assessed directly to the employers, then necessary funds should be made available for this purpose from the general revenue of the province.

Wm U W





We do not advocate that this be done. We believe that comprehensive protection should be assured workmen under the Workmen's Compensation Act, and that the costs of same are a proper levy against the employers of labour. The suggestion that the financing of certain special features of the Act could be achieved through funds from general revenue, is made only to emphasize the point we have made that costs cannot be the obstacle to full needs of the workmen on compensation being met.

2. The Act to provide that claims shall not be denied solely on the grounds that there is insufficient evidence, or absence of eyewitnesses.

Claims are sometimes denied because of a lack of direct evidence which satisfies the Board that the condition on which the workman makes his claim arose out of and in the course of employment.

In other words, the Board is not prepared to accept the explanations of the workman and, in effect, deny claims based on a combination of circumstances which result, without conclusive proof, in an assumption that the accident happened elsewhere than at the place of employment.

The arrival at such an assumption is clearly shown in a letter from the Board, dated January 13, 1966, to a claimant who had suffered a hernia condition:

"Your claim has been carefully considered having regard for the complete evidence submitted.

"Under the terms of the Workmen's Compensation Act, in order for a workman to have entitlement for disability benefits, it must be shown that there was disablement by accident arising out of and during the course of employment.





"Although you alleged that on December 1, 1965, you slipped while coming down a set of stairs and at the time felt as if you had strained a muscle in your groin, there were no witnesses to this accident. Complaint was made to your foreman on the same date, however, no history of industrial accident was related at the time. On December 3, 1965, report of your condition was made to your employer's First Aid Department and although you were aware at that time that you had a hernia condition, no history of an industrial accident or unusual occurrence was reported.

"In view of the above, your claim has been rejected as it has not been shown that the disability was the result of accident in the employment."

The rejection of this claim was confirmed following an explanation made by the workman on the request of the Board. In a letter dated December 14, 1965, the workman informed the Board as follows:

"In reply to your letter dated December 10, 1965.

"On December 1, 1965 at approximately 3 p.m. I slipped coming down a set of stairs from a workmen's platform. At that time it felt as if I had strained a muscle in my groin. About one-half hour later I took severe pains in my groin and went into the Inspection Office and sat down. While there my superior inspection foreman.... entered the office and I explained to him what had happened.

"I went home at five o'clock and it being Wednesday and no office hours for doctors, I went to bed. Next morning I had very little pain so I went to work. As the day passed, the pain returned, so that night I went to my family doctor. He informed me I had a hernia and that an operation was required. This I reported to the Personnel Office the next morning."

It is clear from the above quoted letters that there were elements of doubt as a result of some conflict in the statements of the workman and





the company. The question which arises in such a case is who should be given the benefit of any doubt -- the injured workman whose livelihood is at stake, or the employer who is naturally interested in keeping the accident rate down in his plant because of its effect on the rate of compensation cost which he is assessed.

It is a very well established fact that many employers seek to reduce the cost impact through persuading injured workmen not to make a claim for compensation, but to continue to draw full wages by remaining at work, even though they are not expected to produce much, if anything at all. In our view, wherever this practice is discovered, the employer should be subject to severe penalty.

Reference is made in the letter of the Workmen's Compensation Board dated January 13, 1966, to the absence of eyewitnesses, and in view of the conflicting statements of the claimant and the employer, we assume that the Board must have based the rejection primarily on this fact.

In our view this is entirely wrong and most unfair. Accidents do not wait for the presence of eyewitnesses, and their absence should not have any bearing on the disposition of a compensation claim.

In cases where there is a conflict of evidence, the determining factor should, in our opinion, be that of whether the accident as described could have happened under the physical conditions of the place of employment.

This would require that the onus of proof be on the Board





to establish beyond reasonable doubt that an accident did not occur. In our opinion the Act should be very clear and specific in this respect. At present the onus of proof is on the workman.

3. Recognition of heart disease, mental illness and pure fatigue neurosis, as valid grounds for compensation claims.

In selecting the three conditions above, it is not intended to suggest that other conditions which, in our view, give rise to disabilities, and which are not today clearly recognized as compensable, be excluded. On the contrary, the connection between physical and mental problems, and our complex industrial civilization should be under constant examination and review, with no arbitrary or fixed limits placed on disabilities which are, or could be compensable.

In 1964 the United States Department of Health published a book entitled "Occupational Diseases - A Guide to Their Recognition". In the Foreward to the book, Dr. Harry Heimann, Chief of the Division of Occupational Health, wrote:

"The tremendous technological achievements of the past few decades have greatly intensified the problem of occupation disease detection and control. Indeed, few, if any, of the vast array of new products and processes created by a dynamic technology are without their potential health hazards. As part of the effort to produce new tools to facilitate the discovery and prevention of job-related illness, this guide is offered to those responsible for meeting the growing challenges of occupational health."





The book deals almost exclusively with physical substances and readily defined conditions which we do not need to deal with in this submission. What we are concerned with are the not so readily definable conditions, and the relationship of same to disabilities which have only recently been given serious thought and attention in the field of occupational health.

The following brief references in the introduction to the book are of interest:

"By continued vigilance regarding the occupational history and the hazards encountered, the medical profession can use the occupational findings more effectively in forming judgements concerning disabilities as well as in the diagnosis and treatment of disease. In this way, the physician may not only add to the knowledge of occupational diseases and disabilities but also to the understanding of the possible part played by work factors in the development or aggravation of the diseases and disabilities not usually associated with the work environment. Thus, heart disease is becoming prominent among the claims submitted to workmen's compensation agencies. In such instances the difficult problem of causal relation and disability evaluation confronts the physician....

"Much thought was given to the inclusion of a section on mental illness in industry since it is well known that mental disorders can complicate occupational disease, accidents, prolong disability, work efficiency, and job stability. An example in this category is the syndrome labelled traumatic neurosis, a condition representing a post-traumatic episode which is a sequel to severe physical injury or threat of such injury, or of illness.

"Mental illnesses are less easily recognized by the practitioner and allied personnel in the field of occupational health. The causes are generally obscure and the diagnosis and management of the disorder are frequently dependent upon one skilled in psychiatry.





Thus, it is not possible to present the subject material in a manner paralleling the other more readily defined entities covered, except in the specific instances where acute or chronic mental disease is part of a pathological response to an environmental factor. Omitting such a section, therefore, is not because of a lack of importance. Rather, it is felt that the subject merits far more detail than can be given in a book of this type."

In February 1963 the Financial Post carried a story which bears on the area under discussion. Excerpts follow:

"A U.S. compensation award for mental illness caused by industrial tension could have repercussions in Canada.

"The Supreme Court of Michigan recently ruled that a machine operator must be paid for psychotic illness resulting from emotional pressure of too much criticism, and too many instructions from his foreman.

"The case is reminiscent of the rash of U.S. compensation awards for heart attacks in industry and the much less spectacular but growing trend toward leniency in Canadian heart compensation claims.

"With mounting concern about emotional stress in industry, the U.S. trend could mean more psychiatric claims in Canada....The compensation problem will not be as serious in Canada unless provincial workmen's compensation legislation is changed....Provincial acts provide specifically for types of claims that are compensable. Mental illness -- not itself an accident, not specifically outlined in sections dealing with industrial diseases, and not a disability peculiar to or characteristic of certain industrial process -- does not seem to fit into the compensation schedule. But neither do heart cases. Yet claims and awards for them are increasing."

While there does appear to be more flexibility in approach on the part of the Board to heart disease claims, it remains a most difficult, and at times insurmountable type of claim to establish. More so does this





apply to mental and neurosis problems.

Some years ago we represented the family of a member of this union who died under the following circumstances:

The claimant had suffered a severe injury to his right arm. His arm was badly mangled and he was hospitalized for a lengthy period.

After a number of surgical operations he was discharged from the hospital. While convalescing at home he suffered a heart seizure and died.

At the time of death he was receiving compensation. Immediately following death, compensation payments ceased and the Board informed the widow that they had no further responsibility in the case.

The position of the Board in this case was that the cause of death was not the terrible injuries this man had suffered, therefore there was no obligation under the Act. In a case such as this, we feel fully justified in stating that the proper course would have been to have accepted the assumption that the injuries were a direct aggravation of the heart condition, and therefore a cause of death at that time. The family should have been entitled to the regular widow's and dependent's allowances.

Another claim in which we are currently interested, is that of the member of the union who has been informed he will not be able to work again. He has a heart condition, and suffers from arthritis.

His condition has seriously deteriorated since suffering a compensable accident in February 1965 for which he now receives a permanent





disability pension of \$40.25 a month.

In this, and other claims of a similar nature, we are of the strong opinion that the Board cannot easily limit its responsibility. It seems to us that the problem involves much more than the surface relationship of the obvious, a compensable accident, to other existing conditions. In such cases there is need, and obligation, to carefully examine into the entire occupational history of the claimant to determine as conclusively as possible the whole circumstances to the particular situation. This point is made in the book "Occupational Diseases, etc." already referred to, as follows:

✓ "The examiner must, therefore, be wholly mindful not only of the present occupation, but of former ones as well, since a patient suffering from certain ailments may no longer be engaged in the occupation responsible for his present condition."

The problems associated with the work environment which, we believe, result in mental, nervous and emotional illness, causing disability and time away from work, are of paramount importance in this period of revolutionary change in industrial technology, and the era of automation which we are now only entering. They require an entirely new approach and treatment on the part of the authorities. To illustrate this point we quote a letter from an employer, and a letter from the Board to a workman claiming compensation. The letter from the employer, dated May 12, 1965, stated:

"I am sorry to hear that you are again unable to come to work. It is apparent to the company that you must have some problem about which the company can be of little, if any, assistance.





"When you returned for a discussion last Monday, May 3, you said that you felt fine, now that the weather had improved. You returned to work in Department 10, which was the department you were in when you went out sick.

"You worked for one week on nights, and after coming back for one night the second week you stayed away and I hear you are again stating the reason as 'the fumes'. You did not say anything about this while at work, and so far as the company is aware, the only fumes involved are ordinary industrial fumes, and certainly nothing in particular from the paint.

"It may be that the dampness in the weather caused your problem, or it may be something else. In any event the company does not accept that there is anything unusual at our plant which is responsible for your absence.

"We suggest that you get a thorough medical examination to determine whether or not you are fit to work in a manufacturing plant, or any other place which has its own characteristics, such as a hospital, laundry, etc.

"In reviewing the history of this over the past number of months, the company has regretfully decided that you are not to return until you have a proper medical certificate that you are fit to resume normal duties in a normal industrial atmosphere."

On May 27, 1965, the workman received the following from the Board:

"We regret the delay in adjudication, however this was occasioned through the necessity to obtain all available information in order to give every consideration to your claim.

"The evidence presently before us does not disclose an association between your respiratory problem and your employment, accordingly your claim is rejected as it has not been shown that the disability arose out of the employment...."





It may well be that the conditions of work in the particular plant cannot be directly associated with the respiratory problem of which this workman complains. However, it is a very real problem to the workman, even though it may be purely emotional, as each time he returns to the job he finds it impossible to remain and continue work.

Certainly the approach of the employer, who quite without justification takes on the responsibility of "diagnosing" the man's illness, has not been helpful. The employer has refused this man a transfer to some other occupation, which he felt would help solve his problem.

Neither can the position taken by the Board in this case be commended, in placing the only emphasis on "evidence", and without any apparent attempt to probe in depth the problem which could well exist.

In this area of mental and emotional problems it may be of advantage to quote from an European source, where apparently research has been conducted on quite an extensive scale, and at a relatively early date compared to what appears to be the case in North America. The Journal of the International Association for the Study of Living Conditions and Health, published in Vienna, Austria, Vol. 1, No. 4, 1959, contains an article entitled "Pure Fatigue Neurosis and New Industrial Production Methods". We find this article of great interest, particularly the following extract:

"The following observations were made on workers and clerks of the Fiat motor-car works in Turin in the neuro-psychiatric out-patients clinic of the Fiat medical service and in the Psycho-therapeutic Clinic





of Turin University.

"Most of our cases were neuroses. It is practical and possible to separate the category of 'pure fatigue' neurosis from this group.

"'Pure fatigue' neurosis is a neurotic disease similar to the 'nervous fatigue syndrome' conditioned, above all, by nervous stress caused by occupational working conditions....

"Here is a typical case to illustrate the foregoing:

"G.C. is a metalworker, single, 20 years, athletic build, born in the province of Turin.

"Family and personal anamnesis irrelevant. Never suffered from nervous disorders. An active sportsman since childhood. After completing elementary school became factory worker at the age of 12; started as mechanic's apprentice, later skilled smelter in an iron works.

"In spring 1955, the patient was given the job of operating new semi-automatic machine which had been installed for trial purposes in the tube production workshop. During the process he is seated on a comfortable chair and the work he performs requires no physical effort (in contrast to the heavy work he previously carried out). It consists in operating various hand and pedal switches, supervising a series of many-colored light signals and controlling two revolution counters. It is difficult to individualise all the single acts which comprise the functional activity. There are 14 altogether and these are repeated in the same order. The tempo of the process is forcibly determined by the functional rhythm of the machine. At high speed, the 14 single acts require about two seconds.

"The patient worked in this way for eight hours a day and six days a week. Within the first month he began to suffer from symptoms of pathological nervous fatigue which he had not experienced before -- disturbances in





sleep and appetite, nervous tension and asthenia. At that stage he told his employer that he would not be able to carry on with the job for a long time. After two months at the new machine, the patient discontinued sportive activity as he was exhausted at the end of the day, and also gave up sexual activity almost entirely. A strongly-marked fatigue neurosis with generalized anxiety, irritability, depression and loss of weight had developed in the meantime. The patient repeatedly requested the works' management either to reduce the tempo of work, shorten his working time, or transfer him to other employment -- without success.

"One afternoon in December, 1955 he suddenly fainted during working hours, fell off his stool without injury and was sent to hospital....Clinical and laboratory examinations showed no pathological organic disorders and after four days, the patient was released from hospital and transferred to a health insurance nerve specialist....He diagnosed 'psycho-asthenia' and prescribed rest and sedative. The pathological symptoms disappeared after a few weeks treatment at the clinic.... The patient resumed his sportive, sexual and social activities and returned to work as he was the only wage-earner in the family. At the end of March 1956 he took up his former employment as smelter. He was considered to be completely cured by us at the end of June. The nervous disorder had disappeared and his weight was only 2 kg under normal in spite of the muscular and caloric stress of his work."

"In summarizing one can say that G.C.'s disease was an extreme border case of pure fatigue neurosis which essentially took the course of a neurasthenic-depressive syndrome, leading to an acute nervous breakdown and ending in a complete cure."

We would ask the Commission to compare the careful, methodical, and successful methods employed in the case quoted above to that of the method apparently adopted by the Board in the case of the workman with the respiratory problem, real or imagined, which we have also quoted.





Our purpose in quoting at length on this area is to underline the necessity of amendment to the Act, so that any barrier or restriction to an up-to-date approach to illnesses of the type dealt with be removed, permitting the payment of compensation, and thereby introducing a compulsion of employers to accept responsibility for remedial and preventive measures on a far broader basis than exists today.

4. That there be no reduction in level of compensation payment unless, and until, employment is available for the workman.

The present practice of the Board with respect to workmen who are medically certified as partly recovered, is to reduce the amount of compensation paid without regard to whether the workman is able to return to gainful employment, or the availability of such employment.

That the Act permits this is an injustice, and relieves the employer of the injured workman of an obligation which in all fairness he should be compelled to accept. For purpose of illustration we quote the facts in a recent claim in which we are interested:

"Mr. A. was injured and paid full compensation for a period of six weeks. On instruction of the Board he was then examined by his doctor, who reported to the Board that he was capable and available to perform work of a lighter nature than the work he performed prior to the accident.

"The Board informed Mr. A. of the doctor's report, and at the same time reduced the compensation payment by 50%.

"Mr. A. immediately applied to his employer for the type of work which his doctor had certified him as capable of performing. His employer informed Mr. A. that no such work was available, and that he would not be considered for re-employment until he was fully recovered and able to do his old job."





We are aware and agree that the Workmen's Compensation Act is based on providing benefits for disability in the event of occupational accident or illness. We do not agree, and vigorously protest against, the interpretation that such benefits should have no relation to the availability of employment. A partly disabled workman under conditions where employment of a particular type is not available, is, for purpose of gainful employment, fully disabled, and unless and until work which he is able to perform becomes available, there should be no reduction in benefits.

We have also encountered situations where an employer has refused to re-employ an injured workman even following his being medically certified as fully recovered. The Act provides no compulsion on an employer to provide light work, or any work at all.

The Act should be amended to provide (a) an obligation on the employer to re-employ an injured workman, and (b) that compensation benefits not be reduced where there is partial recovery, unless the workman is able to secure employment on work he can perform.

5 - 6 - 7 - 8

5. The lump sum payment on death of an insured workman to be increased to \$1,000, with all reasonable funeral expenses to be paid in addition.
6. Pensions and claims based on prior injuries to be re-adjusted upward based on present wage levels paid for the particular occupation(s) on which the accident(s) occurred.





7. Provision for the upward adjustment of compensation payments based on the cost of living. Widows' and dependents' pensions to be adjusted to fully reflect the change in the cost of living.
8. The amount of compensation to be the equivalent of full earnings, less statutory deductions.

The four proposals above have to do with the standard of living of injured workmen and their families and, in our view, require little argument to justify.

The needs of workmen and their families are not reduced when misfortune strikes in the form of accident or illness. Indeed, need increases under this condition. Therefore, we contend that at least the former level of income, in real dollars, should be maintained for the duration of the disability, or following the death of the insured workman.

On death of an insured workman, the immediate expenses would certainly be substantially in excess of the death benefits, of the \$300. lump sum, and funeral costs up to \$300. presently provided. The proposal we make is, in our opinion, fair and reasonable.

The present provision where disability pensions, and certain other payments, are based on the earnings at the time of accident, which may have been twenty or more years ago, is quite unreal from the point of view of need and equity. Likewise, need demands that the value of the compensation dollar be maintained during the period of disability and/or the full period when a family must be raised after loss of the breadwinner.





We appreciate that the present rate of disability benefits of 75% of earnings, being tax exempt, brings the injured workman's income reasonably close to his actual earnings when on the job. There is no sound reason why it should be less, therefore we propose the Act be amended to provide benefits based on the net income, i.e. full earnings, less statutory deductions.

9. Provision for clothing allowance in case of loss or damage through accident. Allowance for continuing need of special clothing or footwear, or damage through abnormal wear caused through the use of supports or other orthopaedic apparatus.

In certain types of accidents the cost to workmen arising from loss or damage of clothing is quite substantial. In other cases the costs are continuous. In one case which came to our attention, we were told that the cost borne by the workman is in excess of \$100. each year.

In some cases the Board makes provision for special footwear, trusses, and other such apparatus. However, no provision is made for the losses and needs we have referred to above. The Act should provide full coverage on cost of these items.

#### Miscellaneous

In addition to the above proposals, we request the Commission to consider favourable recommendation on the following:

- (a) Compensation benefits should be paid from the first day of accident and disability. We understand that this is provided in the





Compensation Acts of some provinces.

(b) The regulations governing in-plant medical and first aid should be reviewed. We do not believe that the presence of a person holding "a St. John Ambulance Senior First Aid Certificate in good standing, or its equivalent" is adequate in all circumstances, or that all types of industry should be regarded as being the same for purposes of medical and first aid requirements.

(c) We understand the Board now has rather wide discretionary power on compensation benefits payable to non-resident workers or their dependents. We believe the Act should be specific in this area, and that the payment of benefits should not be left to the discretion of the Board.

- - - - -

May we express our appreciation for the opportunity to make this submission to the Commission, and to express the hope that the proposals we have made will be favourably considered in the recommendations which the Commission will make arising out of these hearings.

All of which is respectfully submitted.

United Electrical, Radio and Machine  
Workers of America (UE).

